

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY RSA #4 CELLULAR GENERAL	)	
PARTNERSHIP FOR ISSUANCE OF A CERTIFICATE OF	)	
PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT A	)	CASE NO.
CELL SITE (UPTON) IN RURAL SERVICE #4 (LARUE) OF THE	)	98-155
COMMONWEALTH OF KENTUCKY	)	

O R D E R

On June 25, 1998, Kentucky RSA #4 Cellular General Partnership ("RSA #4 Partnership") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications facility for Rural Service Area No. 4 ("RSA No. 4"). RSA No. 4 includes Anderson, Green, Hardin, Larue, Marion, Mercer, Nelson, Spencer, Taylor, and Washington counties. RSA #4 Partnership has requested authorization to construct a cell site in Larue County. RSA #4 Partnership was previously granted authority to operate a cellular radio telecommunications system in RSA No. 4 in Case No. 90-308.<sup>1</sup>

The proposed cell site consists of a 400-foot or less guyed antenna tower to be located on the east side of I-65, about halfway between the Upton exit and the Hart-Larue county line, southeast of Upton, in Larue County, Kentucky ("the Upton cell site"). The

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<sup>1</sup> Case No. 90-308, Application of Kentucky RSA #4 Cellular General Partnership for Issuance of a Certificate of Public Convenience and Necessity to Provide Domestic Public Cellular Telecommunications Service to the Public in Rural Service Area #4 (Spencer) of the Commonwealth of Kentucky.

coordinates for the Upton cell site are North Latitude 37° 26' 54" by West Longitude 85° 52' 48".

RSA #4 Partnership has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Upton cell site. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and a Registered Professional Engineer has certified the plans.

Pursuant to KRS 100.324(1), the Upton cell site's construction is exempt from local zoning ordinances; however, RSA #4 Partnership notified the Land of Lincoln Planning and Zoning Commission of the pending construction. RSA #4 Partnership has filed applications with and received approvals from the Federal Aviation Administration and the Kentucky Airport Zoning Commission for the construction and operation of the Upton cell site.

RSA #4 Partnership has filed notices verifying that each person who owns property within 500 feet of the Upton cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners of their right to intervene. In addition, notice was posted in a visible location on the proposed site for at least two weeks after RSA #4 Partnership's application was filed, and notice of the proposed construction has been published in the Larue County Herald. To date, no intervention requests have been received.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or

insufficient. To assist the Commission in its efforts to comply with this mandate, RSA #4 Partnership should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by RSA #4 Partnership.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that RSA #4 Partnership should be granted a Certificate of Public Convenience and Necessity to construct and operate the Upton cell site in RSA No. 4 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

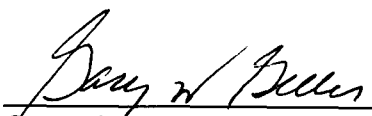
1. RSA #4 Partnership is granted a Certificate of Public Convenience and Necessity to construct and operate the Upton cell site.
2. RSA #4 Partnership shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 4th day of August, 1998.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director